

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

**SAN ANTONIO DIVISION**

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RACKSPACE US, INC.

Plaintiff,

v.

C.A. No. 5:13-cv-00274-OLG

PARALLEL IRON, LLC and IP  
NAVIGATION GROUP, LLC,

Defendants.

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**DECLARATION OF SHANI M. TUTT IN SUPPORT OF DEFENDANT PARALLEL  
IRON, LLC'S MOTION TO DISMISS PURSUANT TO THE FIRST-TO-FILE RULE, OR,  
IN THE ALTERNATIVE, STAY THIS CASE IN FAVOR OF THE FIRST-FILED CASE  
IN THE DISTRICT OF DELAWARE, TRANSFER THIS CASE TO THE DISTRICT OF  
DELAWARE, OR SEVER AND TRANSFER THE PATENT CLAIMS TO THE  
DISTRICT OF DELAWARE**

I, Shani M. Tutt, declare as follows:

1. I am a member of the State Bar of California and am duly licensed to practice law before the courts of the State of California. I am a member of Russ August & Kabat ("RAK"), counsel for Defendant Parallel Iron, LLC ("Parallel Iron"). I have personal knowledge of the facts set forth in this declaration and, if called upon to testify, I could and would competently testify to their truth and accuracy.

2. On May 18, 2013, Parallel Iron, a Delaware company, filed suit in the District Court of Delaware alleging that Rackspace US, Inc. ("Rackspace") is infringing three of Parallel Iron's patents related to data storage technology: U.S. Patent Nos. 7,197,662 (the "'662 patent"), 7,958,388 (the "'388 patent"), and 7,543,177 (the "'177 patent"). This action is styled as *Parallel Iron LLC v. Cloudera Inc. et al.*, C.A. No. 1:13-cv-00443-RGA (the "Delaware Action"). Rackspace is one of 12 defendants named in the Delaware Action. Parallel Iron has alleged that the defendants all use the same infringing Hadoop Distributed File System software ("HDFS") system, which is provided by defendant Cloudera, Inc. ("Cloudera"), and are thus properly joined in the Delaware action. A true and correct copy of Parallel Iron's complaint filed in the Delaware Action is attached hereto as Exhibit A.

3. The Delaware Action against Rackspace is the latest of 23 lawsuits concerning the '662 patent, the '177 patent, and the '388 patent filed in the District of Delaware since June 2012 (collectively, the "Delaware litigations"). All 23 of the Delaware litigations are assigned to the Honorable Richard G. Andrews. In 2011, Parallel Iron's predecessor-in-interest filed patent infringement lawsuits in the District of Delaware concerning another patent involving similar storage technology against other accused infringers. All together, Parallel Iron has been a party to 29 cases in the District of Delaware concerning infringement of its patents related to data storage technology. A list of these 29 cases is attached hereto as Exhibit B.

4. On May 10, 2013, rather than file an answer or other responsive pleading, Rackspace filed a motion to stay proceedings in the Delaware Action pending resolution of

Parallel Iron's claims against co-defendant Cloudera. The basis for Rackspace's motion to stay is that it is merely a customer of Cloudera, and its liability for patent infringement will thus be resolved upon resolution of Parallel Iron's claims against Cloudera. Parallel Iron has opposed the motion. The motion is still pending before the Delaware court. A true and correct copy of the docket report as of this day, June 3, 2013, is attached hereto as Exhibit C.

5. Executed on June 3, 2013, at Los Angeles, California. I declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct.



Shani M. Tutt